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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/308,017 05/12/99 LAUSCH

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TM02/0731

EXAMINER

LASTRA, D

ART UNIT

PAPER NUMBER

2162

DATE MAILED:

07/31/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

09/308,017

Applicant(s)

LAUSCH, HOLGER

Examiner

DANIEL LASTRA

Art Unit

2162

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

1. Claims 1-17 have been examined.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sizer et al (U.S. 5,923,252) in view of Frey (U.S. 5,138,638).

As per claim 1, Sizer et al teach,

"in a detection range the number of the potential customers is detected in direct sequence" (see abstract), and

"in that the messages are presented to the potential customers visually or audiovisually" (see abstract), and

"in that the behavior of the potential customers as recipients and consumers is detected" (see background of the invention), and

Sizer et al fail to teach, "in that the number of the actual buyers and of the bought products is detected and in that the detected and register numbers of the potential customers, the recipients, of the actual buyers and of the bought products are recorded and correlated." However, Frey teaches a system that detects the number of actual buyers and bought products to help store managers identify problem areas and take corrective measures to improve store performance (see column 3). Therefore, it would

have been obvious to a person of ordinary skill in the art at the time the application was made, to know that the Sizer et al system would integrate its audiovisual marketing device to the store point of sale system, as taught by Frey. Knowing what the customer bought, would help the Sizer et al system better target the advertisements.

As per claim 2, Sizer et al teach, "characterized in that the detected numbers of at least two detection ranges are centrally registered and evaluated" (see column 7, lines 1-15).

As per claim 3, Sizer et al teach, "characterized in that the mode of presenting the messages is centrally controlled" (see column 7, lines 1-15).

As per claim 4, Sizer et al teach,  
"sensors are provided being associated to at least one range for detecting the movements of the recipients in said range" (see column 3, lines 17-19).

"wherein at least a first sensor is provided at an entry of said range for detecting first counting signals and at least a second sensor at an exit of said range for detecting second counting signals" (see column 7, lines 34-40) and,

"further, in that a display is provided for presenting messages in said range" (see column 7),

"a computer for recording and evaluating the signals of movements and the counting signals for analyzing the projection and the reception data as well as for controlling said display" (see columns 3-4 and 7).

Sizer et al fail to teach, "a cash box for detecting the bought products". However, Frey teaches a system that detects the number of actual buyers and bought products to

help store managers identify problem areas and take corrective measures to improve store performance (see column 3). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that the Sizer et al system would integrate its audiovisual marketing device to the store point of sale system, as taught by Frey. Knowing exactly what the customer bought would help the Sizer et al system better target the advertisements.

As per claim 5, Sizer et al fail to teach, "characterized by two ranges connected with one another via a passage, at which at least a third sensor is provided, wherein the display is arranged in said first range and the products in said second range". However, It would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that the Sizer et al system would place the display and the products in different locations. Sizer et al system do not have limitations in the location of sensors and products. Applicant has not disclosed that positioning the display in the first range and products in the second range provides an advantage, is used for a particular purpose, or solves a stated problem.

As per claim 6, Sizer et al fail to teach, "characterized in that said second sensor at the exist is coupled to an electronic cash register." However, Frey teaches sensors at the store exist and coupled to an electronic cash register (see columns 3 and 4). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that the Sizer et al sensor's system would integrate with the point of sale system, as taught by Frey. Integrating the sensors that detects the

number of potential buyers with the point of sale system would help the Sizer et al better target the advertisements.

As per claim 7, Sizer et al teach, "characterized in that said computer includes an image storage for the display" (see column 7, lines 1-17).

As per claim 8, Sizer et al teach, "characterized in that said computer is in combination with computers of further arrangements to a central detection and evaluation unit" (see column 7, lines 1-17).

As per claim 14, Sizer et al teach, "characterized in that the same is cross-linked with at least a further same arrangement via a central station" (see column 7).

Claims 9-13 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sizer et al (U.S. 5,923,252) in view of Frey (U.S. 5,138,638) and further in view of Fraser (U.S. 5,620,061).

As per claim 9, Sizer et al fail to teach, "characterized in that a fiber-optical display is employed." However, Fraser teaches the delivering of advertisements using a fiber optical display (see column 4, lines 1-8). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that the Sizer et al would utilize fiber optical displays, as taught by Fraser. Utilizing fiber optical displays would allow the Sizer et al system deliver high bandwidth data, such as videos.

As per claim 10, Sizer et al fail to teach, "characterized in that the display is arranged in upright position". However, it would have been obvious to a person of

ordinary skill in the art at the time the application was made, to know that the Sizer et al system would arrange the display in the best position for the customer to see it. If the best position is upright, that is the position that the Sizer et al's display would be oriented.

As per claims 11, 13, 16 and 17, Sizer et al fail to teach, "characterized in that the display is arranged suspended in suitable manner." However, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that the Sizer et al system would arrange the display in the best position for the customer to see it.

As per claims 12 and 15, Sizer et al fail to teach, "characterized in that the display is arranged inclinedly." However, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that the Sizer et al system would arrange the display in the best position for the customers to see it. If that position is inclined, that is the position that the Sizer et al's display would be oriented.

### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Katz teaches a surveillance system which can store and replay information which is not generated contemporaneously.
- Craig teaches a point of sale audio-visual advertisement system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 703-306-5933. The examiner can normally be reached on 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W STAMBER can be reached on 703-305-8469. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-9051 for regular communications and 703-308-5357 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

D.L.

Daniel Lastra  
July 24, 2001



ERIC W. STAMBER  
PRIMARY EXAMINER